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Lois Rogers, Smith County District Clerk
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15-1528-A
NO. _____

SUE GREENE, Individually and as
Next Friend of DAYSVONNE
GREENE and LAJOYIA GREENE,
TINA GREENE, LIONEL
WILLIAMS, WILLIE GREENE,
LEWIS FUNK, WILLIAM FUNK,
MAKAYLA BOWEN, Individually and
as Next Friend of MAKAI BOWEN
and TAYSHOWN FUNK,
JACQUALINE SIGG, Individually and
as Next Friend of JEREMIAH
GREENE, and ROSIE GREENE as
Next Friend of OSHEANA GREENE
and SIR KIONDRE GREENE,
Plaintiffs,

V.

DAVID CECIL PIERCY, and
MARTEN TRANSPORT LTD,
MARTEN TRANSPORT SERVICES
LTD,
Defendants.

IN THE DISTRICT COURT AT

_____ JUDICIAL DISTRICT

OF SMITH COUNTY, TEXAS

**PLAINTIFFS' ORIGINAL PETITION, REQUEST FOR DISCLOSURE,
INTERROGATORIES, AND PRODUCTION**

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COME Sue Greene, Individually and as Next Friend of Daysvonne Greene and LaJoyia Greene, Tina Greene, Lionel Williams, Willie Greene, Lewis Funk, William Funk, Makayla Bowen, Individually and as Next Friend of Makai Bowen and Tayshawn Funk, Jacqueline Sigg, Individually and as Next Friend of Jeremiah Greene, and Rosie Greene as Next Friend of Osheana Greene and Sir Kiondre Greene, hereinafter called Plaintiffs, complaining of and about David Cecil Piercy, Marten Transport, LTD and Marten Transport Services, LTD, hereinafter called Defendants, and for cause of action shows unto the Court the following:

PLAINTIFFS' ORIGINAL PETITION, REQUEST FOR DISCLOSURE, INTERROGATORIES, AND REQUEST FOR PRODUCTION
Greene

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EXHIBIT E

DISCOVERY CONTROL PLAN LEVEL

Plaintiffs intend that discovery be conducted under Discovery Level 3.

PARTIES AND SERVICE

A. Plaintiff: Sue Greene is an individual residing in Curry County, New Mexico. The last three digits of her driver's license number are XXX. The last three digits of her social security number are 247.

B. Plaintiff: Daysvonne Greene is a minor residing in Sedgwick County, Kansas. The last three digits of her social security number are 795.

C. Plaintiff: LaJoyia Greene is a minor residing in Sedgwick County, Kansas. The last three digits of her social security number are 308.

D. Plaintiff: Tina Greene is an individual residing in Sedgwick County, Kansas. The last three digits of her driver's license number are 490. The last three digits of her social security number are 945.

E. Plaintiff: Lionel Williams is an individual residing in Sedgwick County, Kansas. The last three digits of his Kansas ID number are 394. The last three digits of his social security number are 500.

F. Plaintiff: Willie Greene is an individual residing in Sedgwick County, Kansas. The last three digits of his driver's license number are 406. The last three digits of his social security number are 807.

G. Plaintiff: Lewis Funk is an individual residing in Sedgwick County, Kansas. The last three digits of his driver's license number are XXX. The last three digits of his social security number are 591.

H. Plaintiff: William Funk is an individual residing in Sedgwick County, Kansas. The

last three digits of his driver's license number are 491. The last three digits of his social security number are 925.

I. Plaintiff: Makayla Bowen is an individual residing in Sedgwick County, Kansas. The last three digits of her driver's license number are XXX. The last three digits of her social security number are 295.

J. Plaintiff: Makai Bowen is a minor residing in Sedgwick County, Kansas. The last three digits of his social security number are 742.

K. Plaintiff: Tayshown Funk is a minor residing in Sedgwick County, Kansas. The last three digits of his social security number are 949.

L. Plaintiff: Jacqueline Sigg is an individual residing in Sedgwick County, Kansas. The last three digits of her driver's license number are 597. The last three digits of her social security number are 949.

M. Plaintiff: Jeremiah Greene is a minor residing in Sedgwick County, Kansas. The last three digits of his social security number are 075.

N. Plaintiff: Sir Kiondre Greene is a minor residing in Sedgwick County, Kansas. The last three digits of his social security number are 086.

O. Plaintiff: Osheana Greene is a minor residing in Sedgwick County, Kansas. The last three digits of her social security number are 865.

P. Defendant: David Cecil Piercy is an individual who may be served with process at his home at the following address: 14 Sun Valley Road, Anita, Iowa 50020.

Q. Defendant: Marten Transport, LTD is Wisconsin Corporation with business locations in Texas and may be served with process by serving its registered agent C T Corporation System at: 1999 Bryan Street, Suite 900, Dallas, Texas 75201.

R. Defendant: Marten Transport Services, LTD is Wisconsin Company and may be served with process by serving its registered agent C T Corporation System at: 8020 Excelsior Drive, Suite 200, Madison, Wisconsin 53717.

JURISDICTION AND VENUE

The subject matter in controversy is within the jurisdictional limits of this court.

Plaintiffs seek only monetary relief over \$200,000 but not more than \$1,000,000.

Venue in Smith County is proper in this cause under Section 15.002(a)(1) of the Texas Civil Practice and Remedies Code because all or a substantial part of the events or omissions giving rise to the claim occurred in Smith County. The amount sought in this case is within the jurisdictional limits of this Court.

FACTS

On or about July 26, 2013, David Piercy was driving an 18-wheeler for Marten Transport, LTD and/or Marten Transport Services, LTD on Interstate 20 in Lindale, Texas. Willie Greene was traveling in front of David Piercy with his family as passengers: Jacqueline Sigg, Jeremiah Greene, Sue Greene, Makayla Bowen, William Funk, and Tayshown Funk. Tina Greene was traveling in front of Willie Greene with the passengers: Lionel Williams, Sir Greene, Osheana Greene, Daysvonee Greene, Lajoyia Greene, Lewis Funk and Makai Bowen. Pamela Williams was traveling in the lane beside David Piercy. As Ms. Williams changed into Mr. Piercy's lane, Mr. Piercy failed to slow his vehicle in response to the traffic ahead. As a result of Mr. Piercy following too closely and failing to properly apply his brakes, Mr. Piercy was unable to safely stop and rear-ended Ms. Williams' vehicle, which in turn rear-ended Willie Greene's vehicle, which then rear-ended Tina Greene's vehicle. The wreck caused not only property damage to the vehicles, but also caused

injuries to the Plaintiffs.

RESPONDEAT SUPERIOR

At all times relevant to this lawsuit, David Cecil Piercy was an employee and agent of Marten Transport, LTD and/or Marten Transport Services, LTD. Therefore, Marten Transport, LTD and Marten Transport Services, LTD are also liable under the doctrine of *respondeat superior*.

CAUSES OF ACTION AGAINST DEFENDANTS

Negligence of Defendant, David Cecil Piercy

The occurrence made the basis of this suit, referred to above, and the resulting damages were proximately caused by the negligent conduct of the Defendant, David Cecil Piercy. On the occasion in question, David Cecil Piercy was guilty of negligent acts and/or omissions, including but not limited to:

1. Failing to control his speed;
2. Failing maintain a safe assured safe distance between his vehicle and the vehicle in front of him;
3. Operating a vehicle too fast for existing conditions;
4. Failing to keep such a lookout as a person of ordinary prudence would have kept under the same or similar circumstances;
5. Failing to properly and timely apply his vehicle's brakes in order to avoid the collision in question;
6. Failing to take proper evasive measures to avoid the collision;
7. Failing to maintain his vehicle under control; and/or
8. Driving in a reckless manner.

The above enumerated acts and omissions, singularly or in combination with others, individually and collectively constituted negligence, gross negligence and malice which proximately caused the collision and proximately caused the injuries and damages to Plaintiffs.

Negligence Per Se of Defendant, David Cecil Piercy

Defendant, David Cecil Piercy, was negligent per se in violating one or more of the following particulars:

1. In failing to keep a safe assured distance. TEX. TRANSP. CODE ANN. § 545.062.
2. In driving at a speed greater than that which is reasonable and prudent under the circumstances then existing. TEX. TRANSP. CODE ANN. § 545.351.
3. In driving in a reckless manner. TEX. TRANSP. CODE ANN. § 545.401.

The above enumerated violations of statutes and regulations, singularly or in combination with others, individually and collectively constituted negligence per se which proximately caused the collision, injuries, and damages to Plaintiffs.

Negligence of Defendants, Marten Transport, LTD and Marten Transport Services, LTD

The occurrence made the basis of this suit, referred to above, and the resulting damages were proximately caused by the negligent conduct of the Defendants. On the occasion in question, the Defendants were guilty of negligent acts and/or omissions, including but not limited to:

1. Failing to properly train its employee; and/or
2. Failing to properly supervise its employee;

The above enumerated acts and omissions, singularly or in combination with others, individually and collectively constituted negligence, gross negligence and malice which proximately caused the accident and proximately caused the injuries and damages to Plaintiffs.

DAMAGES

The collision caused by the Defendants caused injuries to Plaintiffs as follows:

As a direct and proximate result of the occurrence made the basis of this lawsuit, Plaintiffs Sue Greene, Tina Greene, Lionel Williams, Willie Greene, Lewis Funk, William Funk, Makayla Bowen, and Jacqueline Sigg, have incurred the following damages:

1. Reasonable medical care and expenses in the past. These expenses were incurred by Plaintiffs for the necessary care and treatment of the injuries resulting from the accident complained of herein and such charges are reasonable and were usual and customary charges for such services;
2. Reasonable and necessary medical care and expenses which will in all reasonable probability be incurred in the future;
3. Physical pain, suffering, and mental anguish in the past and future;
4. Physical impairment in the past and future; and
5. Disfigurement in the past and future.

By reason of all of the above, Plaintiffs Sue Greene, Tina Greene, Lionel Williams, Willie Greene, Lewis Funk, William Funk, Makayla Bowen, and Jacqueline Sigg, have suffered losses and damages in a sum within the jurisdictional limits of the Court and for which this lawsuit is brought.

DAMAGES FOR PLAINTIFFS SUE GREENE AS NEXT FRIEND OF DAYSVONNE GREENE AND LAJOYIA GREENE, MAKAYLA BOWEN AS NEXT FRIEND OF MAKAI BOWEN AND TAYSHOWN FUNK, AND JACQUALINE SIGG AS NEXT FRIEND OF JEREMIAH GREENE, AND ROSIE GREENE AS NEXT FRIEND OF OSHEANA GREENE AND SIR KIONDRE GREENE

The collision caused by the Defendants caused injuries to Plaintiffs Daysvonne Greene, LaJoyia Greene, Makai Bowen, Tayshown Funk, Jeremiah Greene, Osheana Greene and Sir Kiondre Greene as follows:

As a direct and proximate result of the occurrence made the basis of this lawsuit, Plaintiffs Daysvonne Greene, LaJoyia Greene, Makai Bowen, Tayshown Funk, Jeremiah Greene, Osheana Greene and Sir Kiondre Greene have incurred the following damages:

1. Reasonable and necessary medical care and expenses which will in all reasonable probability be incurred in the future until Plaintiffs reach the age eighteen;
2. Loss of earning capacity of Plaintiffs which will, in all probability, be incurred in the future until Plaintiffs reaches the age eighteen; and
3. Physical pain, suffering, and mental anguish in the past and future.

By reason of all of the above, Plaintiffs Sue Greene as Next Friend of Daysvonne Greene and LaJoyia Greene, Makayla Bowen as Next Friend of Makai Bowen and Tayshown Funk, Jacqueline Sigg as Next Friend of Jeremiah Greene, and Rosie Greene as Next Friend of Osheana Greene and Sir Kiondre , have suffered losses and damages in a sum within the jurisdictional limits of the Court and for which this lawsuit is brought.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiffs Sue Greene, Individually and as Next Friend of Daysvonne Greene and LaJoyia Greene, Tina Greene, Lionel Williams, Willie Greene, Lewis Funk, William Funk, Makayla Bowen, Individually and as Next Friend of Makai Bowen and Tayshown Funk, Jacqueline Sigg, Individually and as Next Friend of Jeremiah Greene, and Rosie Greene as Next Friend of Osheana Greene and Sir Kiondre Greene respectfully pray that the Defendants be cited to appear and answer herein, and that upon a final hearing of the cause, judgment be entered for the Plaintiffs against Defendants for damages in an amount within the jurisdictional limits of the Court; together with pre-judgment interest (from the date of injury through the date of judgment) at the maximum rate allowed by law; post-judgment interest at the legal rate,

attorney's fees, costs of court; and such other and further relief to which the Plaintiffs may be entitled at law or in equity.

PLAINTIFFS HEREBY DEMAND TRIAL BY JURY